

**Before the
FEDERAL COMMUNICATIONS COMMISSION
445 12th Street, S.W.
Washington, DC 20554**

Wireless Communications Association International, Inc.)	
National ITFS Association)	
Catholic Television Network)	
)	RM-10586
Proposal to Revise Multichannel Multipoint Distribution)	
Service and Instructional Television Fixed Service Rules)	

To: The Commission

COMMENTS OF IT&E OVERSEAS, INC.

IT&E Overseas, Inc. ("IT&E"), by its attorneys and pursuant to Public Notice DA 02-2732, hereby comments on the captioned proposal for rulemaking filed by the Wireless Communications Association International, Inc. ("WCA"), the National ITFS Association ("NIA") and the Catholic Television Network ("CTN") (collectively, the "Rulemaking Proponents").

On October 7, 2002, the Rulemaking Proponents submitted a proposal to the Commission to substantially revise the Multichannel Multipoint Distribution Service ("MMDS") and Instructional Fixed Television Service ("ITFS") rules by realigning the channel plan and simplifying the rules to provide for more flexibility and less burdensome regulatory requirements. The current channel plan of interleaved channels would be replaced by contiguous blocks that would reside in three major segments – two for low-power operations and one for high-power operations. Site-by-site licensing requirements would be eliminated, interference protection rules would be modified to facilitate the deployment of two-way cellular services, and

many regulatory requirements that are no longer useful or necessary would be modified or eliminated.

IT&E is an interexchange carrier, Internet service provider and Personal Communications Service (“PCS”) carrier situated in Guam. It provides service within Guam and the Northern Mariana Islands as well as from Guam and the Northern Marianas to the rest of the United States and to international points. IT&E also holds spectrum in the Local Multipoint Distribution Service (“LMDS”) band, but has been unable to develop that spectrum due to the fact that the only available equipment is not suitable for rural areas. To provide service, IT&E is dependent upon local exchange service provided by the incumbent carrier (“ILEC”). Unfortunately, the service provided by the ILEC is not satisfactory in many instances. IT&E has made the determination that for Guam and the Northern Marianas, the spectrum most suitable for providing wireless Internet connections and competitive local exchange service is the MMDS/ITFS spectrum. The equipment in the MMDS/ITFS band will provide for connectivity with power and range of transmission sufficient to avoid an excessive build-out. It is critical for service to be economically feasible in rural areas, and thus excessive build-out must be avoided.

In general IT&E supports the proposal of the Rulemaking Proponents. It brings much needed reform to the antiquated MMDS/ITFS rules. However, IT&E is concerned about the licensing delays endemic in the MMDS spectrum. The Commission held its last MMDS auction in late 1995 – almost seven years ago. Since then, there has been no new licensing of MMDS spectrum. It is IT&E’s understanding that there are currently no MMDS or ITFS licensees in Guam -- there are no site specific licensees, and the license held by the winner of the MMDS auction for Guam was cancelled. Therefore, IT&E cannot obtain MMDS spectrum through the

private market, and cannot obtain it through FCC licensing procedures unless the Commission opens up the spectrum to auction.

In other words, IT&E is ready to get into business now, but does not have any suitable spectrum. This is a particular problem in Guam, where the only local exchange carrier is the ILEC. There are no competitive local exchange carriers. IT&E is concerned that as a result of the normal time that it takes for the Commission to review comments and replies, issue a Notice of Proposed Rulemaking, receive comments and replies and issue a Report and Order, it would be several years before IT&E could even bid for licenses and introduce competitive service to Guam.

Therefore, IT&E proposes that the Commission initiate an auction and licensing procedure now. If the Commission is unwilling to do so for all markets with unused MMDS spectrum in the United States, IT&E requests that the Commission at least initiate it for Guam. IT&E understands that the band plan is likely to change from the band plan as currently found in the Commission's rules, and that the band plan may or may not end up as proposed by the Rulemaking Proponents. However, IT&E is willing to take that risk. If licensed, IT&E would be willing to build out based on the current rules and would be willing to retune its equipment to conform to whatever rules are ultimately adopted.

One of the cornerstone policies adopted by Congress in the Communications Act is for the Commission to promote new and innovative services. *See, e.g.,* Section 7 of the Communications Act of 1934, as amended, 47 U.S.C. § 157. IT&E intends to bring new competitive service to Guam, and the initiation of the auction and licensing process for MMDS service for Guam will permit IT&E to do its part to further this important public policy goal.

Respectfully submitted,

IT&E OVERSEAS, INC.

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